

Essentials of a Blogger's Contract

We agree we need a contract to solidify the business agreement, but what are the essentials of a contract for a blogger?

The goal of creating a contract is to mitigate the uncertainties and liabilities in your business agreements and transactions. If used and crafted correctly, a contract serves as a guide, mitigator, and definer for your business dealings.

From partnership agreements to client contracts and more, contracts are used in all stages of the business cycle. With each type of contract there are certain clauses and language that are very unique to each, however, there are also standard clauses that are necessary to make the contract a “contract.”

What are those essentials of a contract? How do you know that your contract is good? Generally, your business agreement should be clear and definite, balanced, and understandable. Below, I'm sharing with you some of the secrets of the trade.

1. Parties to the Contract

This seems obvious, but I can't tell you how many times I've seen this omitted. Also, please include ALL parties to the contract unless separate contracts are required.

2. Effective Date

Include the date the contract becomes enforceable.

3. Termination Date

Which date or event takes place to signify the end of the contractual agreement?

4. Offer—Terms of the Contract

The contract should be absolutely clear and definite about what one party is offering and the other party is agreeing to. How do you do that? The terms

of the agreement should be written out so there isn't any confusion. Terms to consider:

A. Scope

- i. What is a party selling/buying?
- ii. How many hours of service is a party providing?
What is the cost of extra hours?
- iii. How many posts have you agreed to?
Are the posts on your blog only or also other social media platforms?
- iv. What's the frequency of those posts?
When can you take down the post?
- v. How much quantity of product or service is required for the blogger to properly create and post content for the Brand?

B. Payment

- i. What is the monetary compensation (or trade exchange) for the services/goods rendered?
- ii. What is the payment schedule (Payment due dates and percentage due each time)? You can negotiate payment prior to a post.
- iii. Forms of payment allowed?
- iv. Do you impose a late fee?

C. Edits

Do you allow the brand to edit the content you create?
If yes, how many edits are permitted? Also, within how many days do they need to return those edits? Otherwise they lose their ability to edit or delay posting schedule.

Make these terms realistic. If you add terms of puffery and marketing or include unachievable expectations, the moment all parties sign the contract, you are contractually bound to those terms. So, don't set yourself up for failure. Details are necessary to avoid confusion and manage expectations, but don't be over zealous where the terms become unrealizable.

5. Intellectual Property Ownership.

Who owns what? These are the copyright and trademark issues. Adding this clause, contractually binds parties on the intellectual property rights.

- A.** Every contract there might be different ownership issues.
 - i. For example, a graphic designer creating a brand logo for Company A should have a “Made for Hire” clause included in its contract.
 - ii. On the other hand, a software company hired by Company A might have a licensing agreement that gives limited permission to Company A for using its software but no ownership rights.

- B.** As a blogger you are creating tons of content and you should have the ability to either a) own your works created or b) have a license to use the works you created.

- C. Trademark**—be clear with the brands that you need to use their trademark in order to fulfill your duties. Have it clearly written which words or names you can use for tagging and for hashtags. Additionally, get the right to use their logo after your agreement terminates for the purposes of promotions and editorials.

6. Artistic Release

The Blogger’s ultimate work product is per the blogger’s discretion. Include in this clause that the Brand has had the opportunity to view your portfolio and that’s why they are hiring you. Their dislike is not grounds for cancellation or nonpayment.

7. Termination & Rescheduling

What’s the exit strategy for the parties? Under what circumstances can they leave the contractual agreement, what are the steps to leave, and what are the consequences if any? Is there a refund policy?

8. Dispute Resolution and Choice of Law

How do you resolve conflicts in this business relationship? A very common clause forgotten in contracts but very essential. This clause guides the parties on the process of resolving issues (ie. mediation first and then court litigation). Also, the Choice of Law is the state and/or federal law governing the interpretation of your contract and which courts can hear any litigation arising out of your contractual agreement.

9. Entire Agreement

This clause is essential because it states that the parties are agreeing to the four corners of the written contract and no other document, email, phone conversation, etc is a part of the agreement. Including this term confirms that no other ancillary communication can change the words of the written agreement between the parties.

10. Modification or Amendment

This clause allows for flexibility in your agreement for changes in relationships or terms by including the ability to have written amendments to the agreement signed by all related parties.

11. Force Majeure

Essentially, this clause gives grace to either party if they can't fulfil their contractual obligations under the agreement because of acts of God such as natural disasters or situations out of the party's control such as an embargo, political unrest, strikes and even virus pandemics.

- A.** It's important to clearly state events that trigger the Force Majeure and then maybe add a blanket inclusion of circumstances beyond one's control.

- B.** Include the solution and any refunds in the event a Force Majeure occurs. Does the agreement offer an extended race period or immediate contract termination?

12. Severability

Just in case the court of law finds any clause unenforceable, it doesn't render the entire contract unenforceable because that clause is severed from the contract.

13. Signed, Dated and Delivered

Have all parties to the contract sign the contract and date it. Electronic signatures are valid and binding and you can include that in the contract too. This action shows parties understand and agree to the terms of the contract and are ready to contractually bind themselves. Lastly, deliver (notification) the signed contract to the related parties to let them know the contract is ready to go!

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